



## **Douglas County growth measure wins day in court**

**by Susie Vasquez**  
**Nevada Appeal News Service**  
**October 3, 2005**

Three years after voters approved it, the Supreme Court will hear arguments concerning the Sustainable Growth Initiative, a measure that could curb development in Carson Valley.

Arguments are scheduled for Nov. 9 in the Nevada State Supreme Court.

One hour has been set aside for attorneys to argue the case, starting at 11 a.m. on the second floor of the Supreme Court building, 201 S. Carson St.

Douglas County Commission chair Kelly Kite said a decision on this issue is a good thing irrespective of the Supreme Court's decision.

"It's been a very divisive thing," he said. "Economics are limiting our growth anyway, and the important thing is getting that division behind us, no matter which way it goes."

A bone of contention even before voters approved the measure in 2002, the initiative would limit growth to 280 homes a year in Douglas County. It's a measure designed to preserve the Valley's rural character and natural resources.

Initiative opponents, which include Douglas County, Jumpers LLC, Century 21 Clark Properties and Chichester Estates, charge it is arbitrary, capricious and unreasonable, and bears no substantial relationship to public health, safety, morals or general welfare.

They argue the measure is inconsistent with the Douglas County Master Plan and therefore in violation of Nevada law.

After an arduous string of legal debates, proponents of the 280-home limit appealed the issue to the Nevada Supreme Court.

Before it appeared on the November 2002 ballot, the proposal was challenged by Nevada Northwest LLC, a company that had received approval for a 376-home development.

Proponents of the Sustainable Growth Initiative filed a petition with the Supreme Court to stop the injunction and three days later, that court ruled in favor of putting the initiative on the ballot.

"The Supreme Court made that ruling in September of 2002, saying it would rule on the matter shortly," said John Garvin, spokesman for the Sustainable Growth Initiative Committee. "Then the initiative went on the November ballot and passed."

Immediately after the measure passed, developers filed a temporary restraining order against Douglas County and the Sustainable Growth Initiative Committee in the 9th Circuit Court of Appeals to stop implementation of the initiative, charging it was inconsistent with the county's master plan.

In a February 2003 decision, District Judge Michael Gibbons of the 9th Circuit Court said the initiative violated a Nevada law that states zoning ordinances must be consistent with a community's master plan and it was consequently void.

Proponents of the initiative then appealed the case to the Nevada Supreme Court.

The Sustainable Growth Initiative Committee is proceeding with the case on three points.

- The Sustainable Growth Initiative is valid and constitutional, not arbitrary or capricious.
- It is a new legislative policy and not a site-specific zoning ordinance. It is consistent with Douglas County Master Plan's primary goals and as such, does not have to comply with the provisions of Nevada Revised Statute 278.250.
- The initiative can be the subject of an implementing ordinance.

---

[BACK](#) 